

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

HAROLD D. YOUNCE

VS.

CIVIL ACTION NO. 2:11cv89-KS-MTP

WILEY J. BEAVERS, ET AL

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION
AND DISMISSING CASE WITHOUT PREJUDICE, ETC.

This cause is before the Court *sua sponte* for case management purposes upon receipt of the Plaintiff's Amended Complaint [6]. The Magistrate Judge has reviewed Plaintiff's pleadings and recommends this action be dismissed without prejudice pursuant to 28 U.S.C. §1406(a). The Magistrate Judge has filed a Report and Recommendation herein [7]. The Court has considered the pleadings on file and the Report and Recommendation and finds that the Recommendation should be adopted.

1. FACTUAL BACKGROUND

Plaintiff Harold D. Younce, proceeding *pro se* and *in forma pauperis*, filed his Complaint [1] on April 20, 2011, naming the following Defendants: Sean D. Alfortish, Wiley J. Beavers, Michael E. Holoway, Stephen London, and Ronna Steel (all purportedly attorneys). Pursuant to the court's Order [3] directing Plaintiff to clarify his claims, Plaintiff filed an Amended Complaint [6] on July 11, 2011, naming the following additional Defendants: Raylyn R. Beevers, Robert Creely, Philip P. Rapp, Todd Johnson, Seafarers International Union of North America, AFL-CIO, Seafarers International Union, AFL-CIO, Seafarers Welfare and Benefit Plan and Contracts "Union," John Aloysius Hanley, Martin Macisso, Jean Couvillion, Dr. John

Watermeier, Dr. Amusa, 24-Judicial District Court, Parish of Jefferson, State of Louisiana, Judge Ross Ladart, Judge Jo Ellen V. Grant, Peter J. Fitzgerald, Judge Susan M. Chehardy, Judge Edward A. Dufresne, Jr., Judge Fredericka H. Wicker, Judge Pascal F. Calogero, Jr., Judge Jeffrey P. Victory, Judge Jeannette Theriot Knoll, Judge Chet D. Traylor, Judge Catherine D. Kitty-Kimball, Judge John L. Weimer and Judge Bernette J. Johnson.

Plaintiff is a Forrest County, Mississippi resident. The majority of the Defendants reside in Louisiana; one Defendant resides in Mississippi; one Defendant resides in Delaware; one Defendant resides in Maryland; one Defendant resides in Maine; and one Defendant resides in Florida. Plaintiff's complaint and amended complaint allege numerous causes of action including violation of the Jones Act, due process violations, breach of contract, malpractice, and equal protection violations.

II. STANDARD OF REVIEW

When a party objects to a Report and Recommendation this Court is required to "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). See also *Longmire v. Gust*, 921 F.2d 620, 623 (5th Cir. 1991) (Party is "entitled to a *de novo* review by an Article III Judge as to those issues to which an objection is made.") Such review means that this Court will examine the entire record and will make an independent assessment of the law. The Court is not required, however, to reiterate the findings and conclusions of the Magistrate Judge. *Koetting v. Thompson*, 995 F.2d 37, 40 (5th Cir. 1993) nor need it consider objections that are frivolous, conclusive or general in nature. *Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1997). No factual objection is raised when a petitioner merely reurges arguments contained in the original petition. *Edmond v. Collins*, 8 F.3d 290, 293 (5th Cir. 1993).

III. PETITIONER'S OBJECTIONS AND ANALYSIS

Mr. Younce, in his Objection to the Report and Recommendation, goes to great length to stress this Court's duty and to make allegations concerning unethical conduct and law violations in the State of Louisiana. The Objections filed by Mr. Younce show great passion and belief in what he is saying and doing but the Objections miss the point of the Report and Recommendation. This case has no business in this court. It is a Louisiana case and there are no ties to the State of Mississippi. Venue is improper. This case was filed and process has not been issued. There has been no discovery propounded. This Court finds that the Recommendation of Judge Parker is correct and that this case should be dismissed without prejudice.

IV. CONCLUSION

As required by 28 U.S.C. §636(b)(1) this Court has conducted an independent review of the record and a *de novo* review of the matters raised by the Objection. For the reasons set forth above, this Court concludes that Mr. Younce's Objections lack merit and should be overruled. The Court further concludes that the proposed Report and Recommendation is an accurate statement of the facts and the correct analysis of the law in all regards. Therefore, the Court accepts, approves and adopts the Magistrate Judge's factual findings and legal conclusions contained in the Report and Recommendation.

Accordingly, it is ordered that the United States Magistrate Judge Michael T. Parker's Report and Recommendation is accepted pursuant to 28 U.S.C. §636(b)(1) and that Harold D. Younce's claim is dismissed without prejudice.

SO ORDERED this, the 1st day of September, 2011.

s/ Keith Starrett
UNITED STATES DISTRICT JUDGE